

**\*\*\*Advisory Bulletin\*\*\***

**TO: Small Loan Licensees**

**FROM: John S. Allison, Commissioner**

**DATE: February 3, 2003**

**RE: Interest rates and other charges on real estate loans**

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This bulletin shall provide clarification on the interplay between the Small Loan Regulatory Law, Section 75-67-101, et seq., the Small Loan Privilege Tax Law, Section 75-67-201 et seq. (“Mississippi Small Loan Laws”) and the various federal statutes and regulations which provide for federal preemption of certain state laws that address interest rates and fees on mortgage loans.

Federal preemption affects the ability to charge fees and finance charges that would factor into the calculation of the APR on a loan under the Truth-in-Lending Act and Regulation Z. Federal preemption allows a small loan licensee to make loans secured wholly or in part by residential real property utilizing a fee structure permitted under federal law, while being licensed under the Mississippi Small Loan Laws. Thus, for those eligible loans secured wholly or in part by real estate, small loan licensees may utilize principles of federal preemption to charge discount points, interest and fees that are allowed under federal law, but which exceed limits on the discount points, interest and closing fee that can be charged under Section 75-17-21.

The fees and charges provisions of Section 75-17-21 are subject to preemption under Section 501 of the Depository Institutions Deregulation and Monetary Control Act (“DIDMCA”); all other parts of the Small Loan Laws and Regulations not subject to preemption under DIDMCA would continue to apply to small loan licensees that use federal preemption.

All disclosures made or fees charged on real estate loans utilizing federal preemption must comply with Regulation Z of the Federal Truth-in-Lending Act.

**This bulletin shall be effective on March 1, 2003.**